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**LAW OFFICE OF
VAN R. IRION, PLLC
9040 EXECUTIVE PARK DRIVE,
SUITE 223
KNOXVILLE, TN 37923**

MAR 15 2010

OFFICE OF PETITIONS

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MAY 14 2010

In re Patent No. 6,787,324
Issue Date: September 7, 2004
Application No. 09/764,826
Filed: January 17, 2001
Attorney Docket No. 03073-0001U2

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under 37 CFR 1.378(c), filed December 18, 2009, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **DISMISSED**.

Any petition for reconsideration of this decision must be accompanied by the petition fee of \$400 as set forth in 37 CFR 1.17(f). The petition for reconsideration must include the lacking item(s) noted below, since, after a decision on the petition for reconsideration, no further reconsideration or review of the matter will be undertaken by the Director.

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; and (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2). This petition lacks item (3) above.

With respect to item 3: A review of the Office record shows that the surcharge submitted with the petition filed December 18, 2009 is insufficient, the current surcharge is \$1640. The instant petition lacks the complete required surcharge as set forth in 37 CFR 1.20(i)(2). No consideration on the merits can be given until the required fee deficiency is remitted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

If reconsideration of this decision is desired, a petition for reconsideration under 37 CFR 1.378(e) must be filed within **TWO (2) MONTHS** from the mail date of this decision. No extension of this two-month time limit can be granted under 37 CFR 1.136(a) or (b). This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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Post Office Box 1450
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Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries should be directed to the undersigned at 571-272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

Certificate of Mailing under 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

on 5/12/10
Date


Signature

Van R. Irion
Typed or printed name of person signing Certificate

86090
Registration Number, if applicable

(865)809-4505
Telephone Number

Note: Each paper must have its own certificate of mailing, or this certificate must identify each submitted paper.

This collection of information is required by 37 CFR 1.8. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.8 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

- Copy of PTO Ntc. of Petition Dismissal
- Check for \$1165⁰⁰
- Transmittal letter &
- Petition for Reconsideration

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MAY 14 2010

May 12, 2010

OFFICE OF PETITIONS

Mail Stop PETITION
Commissioner for Patents
Attn: Diane Goodwyn
Post Office Box 1450
Alexandria, CA 22313-1450

Re: Patent No. 6,787,324
Issue Date: September 7, 2004

Ms. Goodwyn:

Please find enclosed with this letter a petition for reconsideration in response to your notice of dismissal of my petition to accept a late maintenance fee for Patent number 6,787,324. Please also find enclosed a check for \$1165. Per our phone conversations this amount should be sufficient to cover the \$400 fee for reconsideration, as set forth in 37 CFR 1.17(f), as well as the insufficient funds for the surcharge. Also per our conversation, please note that a statement that the delay in paying the maintenance fee has already been submitted, payment of the maintenance fee has already been submitted, and partial payment of the surcharge has already been submitted.

Also enclosed is a copy of your notice on of dismissal and a certificate of mailing.

Please contact me immediately if you have any questions or concerns.

Thank you,



Van R. Irion
Law Office of Van R. Irion, PLLC

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PETITION FOR RECONSIDERATION

May 12, 2010

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MAY 14 2010

Mail Stop PETITION
Commissioner for Patents
Attn: Diane Goodwyn
Post Office Box 1450
Alexandria, CA 22313-1450

OFFICE OF PETITIONS

Re: Patent No. 6,787,324
Issue Date: September 7, 2004
Application No. 09/764,826
Filed: January 17, 2001

Please let this serve as a petition for reconsideration in response to the notice of dismissal dated March 15, 2010 of the petition to accept a late maintenance fee for Patent number 6,787,324. Patent owners hereby petition for reconsideration and acceptance of their petition. Accompanying this petition are funds sufficient to cover the \$400 fee for reconsideration, as set forth in 37 CFR 1.17(f), as well as the insufficient funds for the surcharge. A statement that the delay in paying the maintenance fee has already been submitted, payment of the maintenance fee has already been submitted, and partial payment of the surcharge has already been submitted.



Van R. Irion
Law Office of Van R. Irion, PLLC
PTO Customer number 86090